



1 trafficking in amphetamine, capital importation  
2 of amphetamine, trafficking in flunitrazepam,  
3 or other specified violation of s. 893.135(1),  
4 F.S.; providing for imposition of a 20-year  
5 minimum term of imprisonment when, in addition  
6 to such circumstances, the firearm or  
7 destructive device was discharged while the  
8 person was carrying, displaying, using, or  
9 threatening or attempting to use the firearm or  
10 destructive device; providing for imposition of  
11 a minimum term of imprisonment of not less than  
12 25 years and not more than a term of  
13 imprisonment of life in prison when, in further  
14 addition to such circumstances, the discharging  
15 of the firearm or destructive device resulted  
16 in infliction of death or great bodily harm  
17 upon any person; providing for construction;  
18 providing legislative intent with respect to  
19 punishment of offenders who possess, carry,  
20 display, use, or threaten or attempt to use  
21 firearms or destructive devices; providing  
22 imposition of the minimum term of imprisonment  
23 consecutive to any other term of imprisonment  
24 imposed; providing that the minimum term of  
25 imprisonment imposed is authorized by law  
26 regardless of the maximum sentence that may be  
27 imposed for the underlying felony; increasing  
28 from 8 to 15 years the minimum prison term for  
29 certain felonies or attempted felonies under  
30 specified circumstances when, during the  
31 commission of the offense, the offender

1           possessed a semiautomatic firearm and its  
2           high-capacity detachable box magazine or a  
3           machine gun; providing for the category of such  
4           offenses to include murder, sexual battery,  
5           robbery, burglary, arson, aggravated assault,  
6           aggravated battery, kidnapping, escape,  
7           aircraft piracy, aggravated child abuse,  
8           aggravated abuse of an elderly person or  
9           disabled adult, unlawful throwing, placing, or  
10          discharging of a destructive device or bomb,  
11          carjacking, home-invasion robbery, aggravated  
12          stalking, and trafficking in cannabis,  
13          trafficking in cocaine, capital importation of  
14          cocaine, trafficking in illegal drugs, capital  
15          importation of illegal drugs, trafficking in  
16          phencyclidine, capital importation of  
17          phencyclidine, trafficking in methaqualone,  
18          capital importation of methaqualone,  
19          trafficking in amphetamine, capital importation  
20          of amphetamine, trafficking in flunitrazepam,  
21          or other specified violation of s. 893.135(1);  
22          providing for imposition of a 20-year minimum  
23          term of imprisonment when, in addition to such  
24          circumstances, the semiautomatic firearm and  
25          its high-capacity detachable box magazine or a  
26          machine gun was discharged while the person was  
27          carrying, displaying, using, or threatening or  
28          attempting to use the semiautomatic firearm and  
29          its high-capacity detachable box magazine or a  
30          machine gun; providing for imposition of a  
31          minimum term of imprisonment of not less than

1 25 years and not more than a term of  
2 imprisonment of life in prison when, in further  
3 addition to such circumstances, the discharging  
4 of the semiautomatic firearm and its  
5 high-capacity detachable box magazine or a  
6 machine gun resulted in infliction of death or  
7 great bodily harm upon any person; providing  
8 for construction; providing legislative intent  
9 with respect to punishment of offenders who  
10 possess, carry, display, use, or threaten or  
11 attempt to use a semiautomatic firearm and its  
12 high-capacity detachable box magazine or a  
13 machine gun; providing for imposition of the  
14 minimum term of imprisonment consecutive to any  
15 other term of imprisonment imposed; providing  
16 that the minimum term of imprisonment imposed  
17 is authorized by law regardless of the maximum  
18 sentence that may be imposed for the underlying  
19 felony; providing for legislative policy and  
20 intent; providing for a report; requiring the  
21 state attorney to explain mandatory sentence  
22 deviations in writing; requiring state  
23 attorneys to submit such writings to its  
24 association where it must remain available to  
25 the public for at least 10 years; reenacting s.  
26 921.0022(2), F.S., relating to the Criminal  
27 Punishment Code offense severity ranking chart,  
28 s. 921.0024(1)(b), F.S., relating to Florida  
29 Criminal Punishment Code worksheet computations  
30 and key, and s. 947.146(3)(b), F.S., relating  
31 to Control Release Authority, to incorporate

1           said amendment in references; providing for  
2           public service announcements with respect to  
3           the penalties provided in the act; providing an  
4           effective date.

5  
6           WHEREAS, Florida ranks among the most violent states in  
7           the nation, and

8           WHEREAS, in 1975 the Florida Legislature enacted  
9           legislation requiring a minimum mandatory sentence of three  
10          years in prison for possessing a gun during the commission or  
11          attempted commission of a violent felony, and

12          WHEREAS, the Legislature enacted this mandatory penalty  
13          in order to protect citizens from criminals who are known to  
14          use guns during the commission of violent crimes, and

15          WHEREAS, the FBI reports that among persons identified  
16          in the felonious killings of law enforcement officers in 1997,  
17          71% had prior criminal convictions, and one of every four were  
18          on probation or parole for other crimes when they killed the  
19          officers, and

20          WHEREAS, criminals who use guns during the commission  
21          of violent crimes pose an increased danger to the lives,  
22          health, and safety of Florida's citizens and to Florida's law  
23          enforcement officers who daily put their lives on the line to  
24          protect citizens from violent criminals, and

25          WHEREAS, the Legislature intends to hold criminals more  
26          accountable for their crimes, and intends for criminals who  
27          use guns to commit violent crimes to receive greater criminal  
28          penalties than they do today, and

29          WHEREAS, the Legislature intends that when law  
30          enforcement officers put themselves in harm's way to apprehend  
31          and arrest these gun-wielding criminals who terrorize the

1 streets and neighborhoods of Florida, that these criminals be  
2 sentenced to longer mandatory prison terms than provided in  
3 current law, so that these offenders cannot again endanger law  
4 enforcement officers and the public, and

5 WHEREAS, there is a critical need for effective  
6 criminal justice measures that will ensure that violent  
7 criminals are sentenced to prison terms that will effectively  
8 incapacitate the offender, prevent future crimes, and reduce  
9 violent crime rates, and

10 WHEREAS, it is the intent of the Legislature that  
11 criminals who use guns to commit violent crimes be vigorously  
12 prosecuted and that the state demand that minimum mandatory  
13 terms of imprisonment be imposed pursuant to this act, NOW,  
14 THEREFORE,

15

16 Be It Enacted by the Legislature of the State of Florida:

17

18 Section 1. Section 775.087, Florida Statutes, is  
19 amended to read:

20 775.087 Possession or use of weapon; aggravated  
21 battery; felony reclassification; minimum sentence.--

22 (1) Unless otherwise provided by law, whenever a  
23 person is charged with a felony, except a felony in which the  
24 use of a weapon or firearm is an essential element, and during  
25 the commission of such felony the defendant carries, displays,  
26 uses, threatens to use, or attempts to use any weapon or  
27 firearm, or during the commission of such felony the defendant  
28 commits an aggravated battery, the felony for which the person  
29 is charged shall be reclassified as follows:

30 (a) In the case of a felony of the first degree, to a  
31 life felony.

1 (b) In the case of a felony of the second degree, to a  
2 felony of the first degree.

3 (c) In the case of a felony of the third degree, to a  
4 felony of the second degree.

5  
6 For purposes of sentencing under chapter 921 and determining  
7 incentive gain-time eligibility under chapter 944, a felony  
8 offense which is reclassified under this section is ranked one  
9 level above the ranking under s. 921.0022 or s. 921.0023 of  
10 the felony offense committed.

11 (2)(a)1. Any person who is convicted of a felony or an  
12 attempt to commit a felony regardless of whether the use of a  
13 weapon is an element of the felony and the conviction was for:

14 a.(a) Murder;

15 b.(b) Sexual battery;

16 c.(c) Robbery;

17 d.(d) Burglary;

18 e.(e) Arson;

19 f.(f) Aggravated assault;

20 g.(g) Aggravated battery;

21 h.(h) Kidnapping;

22 i.(i) Escape;

23 j.(j) Aircraft piracy;

24 k.(k) Aggravated child abuse;

25 l.(l) Aggravated abuse of an elderly person or  
26 disabled adult;

27 m.(m) Unlawful throwing, placing, or discharging of a  
28 destructive device or bomb;

29 n.(n) Carjacking;

30 o.(o) Home-invasion robbery; ~~or~~

31 p.(p) Aggravated stalking;

1           g. Trafficking in cannabis, trafficking in cocaine,  
2 capital importation of cocaine, trafficking in illegal drugs,  
3 capital importation of illegal drugs, trafficking in  
4 phencyclidine, capital importation of phencyclidine,  
5 trafficking in methaqualone, capital importation of  
6 methaqualone, trafficking in amphetamine, capital importation  
7 of amphetamine, trafficking in flunitrazepam, or other  
8 violation of s. 893.135(1); or

9           r. Possession of a firearm by a felon

10  
11 and during the commission of the offense, or the flight  
12 therefrom, such person possessed a "firearm" or "destructive  
13 device" as those terms are defined in s. 790.001, shall be  
14 sentenced to a minimum term of imprisonment of 10 3 years,  
15 except that a person who is convicted for aggravated assault,  
16 possession of a firearm by a felon, or burglary of a  
17 conveyance shall be sentenced to a minimum term of  
18 imprisonment of 3 years if such person possessed a "firearm"  
19 or "destructive device" during the commission of the offense.

20           2. Any person who is convicted of a felony or an  
21 attempt to commit a felony listed in sub-subparagraphs  
22 (a)1.a.-g., regardless of whether the use of a weapon is an  
23 element of the felony, and during the course of the commission  
24 of the felony or the flight therefrom, such person discharged  
25 a "firearm" or "destructive device" as defined in s. 790.001  
26 shall be sentenced to a minimum term of imprisonment of 20  
27 years.

28           3. Any person who is convicted of a felony or an  
29 attempt to commit a felony listed in sub-subparagraphs  
30 (a)1.a.-g., regardless of whether the use of a weapon is an  
31 element of the felony, and during the course of the commission



1 of the felony or the flight therefrom, such person discharged  
2 a "firearm" or "destructive device" as defined in s. 790.001  
3 and, as the result of the discharge, death or great bodily  
4 harm was inflicted upon any person, the convicted person shall  
5 be sentenced to a minimum term of imprisonment of not less  
6 than 25 years and not more than a term of imprisonment of life  
7 in prison.

8 (b) Subparagraph (a)1., subparagraph (a)2., or  
9 subparagraph (a)3. does not prevent a court from authorizing a  
10 longer sentence of incarceration as authorized by law in  
11 addition to the minimum mandatory sentence, or from imposing a  
12 sentence of death pursuant to other applicable law.

13 Subparagraph (a)1., subparagraph (a)2., or subparagraph (a)3.  
14 does not authorize a court to impose a lesser sentence than  
15 otherwise required by law.

16  
17 Notwithstanding s. 948.01, adjudication of guilt or imposition  
18 of sentence shall not be suspended, deferred, or withheld, and  
19 the defendant is not eligible for statutory gain-time under s.  
20 944.275 or any form of discretionary early release, other than  
21 pardon or executive clemency, or conditional medical release  
22 under s. 947.149, prior to serving the minimum sentence.

23 (c) If the minimum mandatory terms of imprisonment  
24 imposed pursuant to this section exceed the maximum sentences  
25 authorized by s. 775.082, s. 775.084, or the Criminal  
26 Punishment Code under chapter 921, then the mandatory minimum  
27 sentence must be imposed. If the mandatory minimum terms of  
28 imprisonment pursuant to this section are less than the  
29 sentences that could be imposed as authorized by s. 775.082,  
30 s. 775.084, or the Criminal Punishment Code under chapter 921,  
31 then the sentence imposed by the court must include the

1 mandatory minimum term of imprisonment as authorized in this  
2 section.

3 (d) It is the intent of the Legislature that offenders  
4 who possess, carry, display, use, threaten to use, or attempt  
5 to use firearms or destructive devices be punished to the  
6 fullest extent of the law, and the minimum terms of  
7 imprisonment imposed pursuant to this subsection shall be  
8 imposed for each qualifying felony count for which the person  
9 is convicted. The court shall impose any term of imprisonment  
10 provided for in this subsection consecutively to any other  
11 term of imprisonment imposed for any other felony offense.

12 (e) For the purpose of s. 775.087(2) and (3), the term  
13 "conviction" means a determination of guilt resulting from  
14 plea or trial, regardless of whether adjudication was withheld  
15 or whether imposition of sentence was suspended.

16 (3)(a)1. Any person who is convicted of a felony or an  
17 attempt to commit a felony, regardless of whether the use of a  
18 firearm is an element of the felony, and the conviction was  
19 for:

20 a.1. Murder;

21 b.2. Sexual battery;

22 c.3. Robbery;

23 d.4. Burglary;

24 e.5. Arson;

25 f.6. Aggravated assault;

26 g.7. Aggravated battery;

27 h.8. Kidnapping;

28 i.9. Escape;

29 j.10. Sale, manufacture, delivery, or intent to sell,  
30 manufacture, or deliver any controlled substance;

31 k.11. Aircraft piracy;

1           ~~l.12.~~ Aggravated child abuse;  
2           ~~m.13.~~ Aggravated abuse of an elderly person or  
3 disabled adult;  
4           ~~n.14.~~ Unlawful throwing, placing, or discharging of a  
5 destructive device or bomb;  
6           ~~o.15.~~ Carjacking;  
7           ~~p.16.~~ Home-invasion robbery; ~~or~~  
8           ~~q.17.~~ Aggravated stalking; or  
9           r. Trafficking in cannabis, trafficking in cocaine,  
10 capital importation of cocaine, trafficking in illegal drugs,  
11 capital importation of illegal drugs, trafficking in  
12 phencyclidine, capital importation of phencyclidine,  
13 trafficking in methaqualone, capital importation of  
14 methaqualone, trafficking in amphetamine, capital importation  
15 of amphetamine, trafficking in flunitrazepam, or other  
16 violation of s. 893.135(1);  
17  
18 and during the commission of the offense, or the flight  
19 therefrom, such person possessed a semiautomatic firearm and  
20 its high-capacity detachable box magazine or a machine gun as  
21 defined in s. 790.001, shall be sentenced to a minimum term of  
22 imprisonment of 15 & years.  
23           2. Any person who is convicted of a felony or an  
24 attempt to commit a felony listed in subparagraph (a)1.,  
25 regardless of whether the use of a weapon is an element of the  
26 felony, and during the course of the commission of the felony  
27 or the flight therefrom, such person discharged a  
28 semiautomatic firearm and its high-capacity box magazine or a  
29 "machine gun" as defined in s. 790.001 shall be sentenced to a  
30 minimum term of imprisonment of 20 years.  
31

1           3. Any person who is convicted of a felony or an  
2 attempt to commit a felony listed in subparagraphs (a)1.,  
3 regardless of whether the use of a weapon is an element of the  
4 felony, and during the course of the commission of the felony  
5 or the flight therefrom, such person discharged a  
6 semiautomatic firearm and its high-capacity box magazine or a  
7 "machine gun" as defined in s. 790.001 and, as the result of  
8 the discharge, death or great bodily harm was inflicted upon  
9 any person, the convicted person shall be sentenced to a  
10 minimum term of imprisonment of not less than 25 years and not  
11 more than a term of imprisonment of life in prison.

12           (b) Subparagraph (a)1., subparagraph (a)2., or  
13 subparagraph (a)3. does not prevent a court from authorizing a  
14 longer sentence of incarceration as authorized by law in  
15 addition to the minimum mandatory sentence, or from imposing a  
16 sentence of death pursuant to other applicable law.  
17 Subparagraph (a)1., subparagraph (a)2., or subparagraph (a)3.  
18 does not authorize a court to impose a lesser sentence than  
19 otherwise required by law.

20  
21 Notwithstanding s. 948.01, adjudication of guilt or imposition  
22 of sentence shall not be suspended, deferred, or withheld, and  
23 the defendant is not eligible for statutory gain-time under s.  
24 944.275 or any form of discretionary early release, other than  
25 pardon or executive clemency, or conditional medical release  
26 under s. 947.149, prior to serving the minimum sentence.

27           (c) If the minimum mandatory terms of imprisonment  
28 imposed pursuant to this section exceed the maximum sentences  
29 authorized by s. 775.082, s. 775.084, or the Criminal  
30 Punishment Code under chapter 921, then the mandatory minimum  
31 sentence must be imposed. If the mandatory minimum terms of

1 imprisonment pursuant to this section are less than the  
2 sentences that could be imposed as authorized by s. 775.082,  
3 s. 775.084, or the Criminal Punishment Code under chapter 921,  
4 then the sentence imposed by the court must include the  
5 mandatory minimum term of imprisonment as authorized in this  
6 section.

7 (d) It is the intent of the Legislature that offenders  
8 who possess, carry, display, use, threaten to use, or attempt  
9 to use a semiautomatic firearm and its high-capacity  
10 detachable box magazine or a machine gun as defined in s.  
11 790.001 be punished to the fullest extent of the law, and the  
12 minimum terms of imprisonment imposed pursuant to this  
13 subsection shall be imposed for each qualifying felony count  
14 for which the person is convicted. The court shall impose any  
15 term of imprisonment provided for in this subsection  
16 consecutively to any other term of imprisonment imposed for  
17 any other felony offense.

18 (e)~~(b)~~ As used in this subsection, the term:

19 1. "High-capacity detachable box magazine" means any  
20 detachable box magazine, for use in a semiautomatic firearm,  
21 which is capable of being loaded with more than 20 centerfire  
22 cartridges.

23 2. "Semiautomatic firearm" means a firearm which is  
24 capable of firing a series of rounds by separate successive  
25 depressions of the trigger and which uses the energy of  
26 discharge to perform a portion of the operating cycle.

27 Section 2. Legislative intent and policy; report.--

28 (1) It is the intent of the Legislature that convicted  
29 criminal offenders who meet the criteria in s. 775.087(2)(a)2.  
30 and 3. and (3)(a)2. and 3., Florida Statutes, be sentenced to  
31 the minimum mandatory prison terms provided herein. For every

1 case in which the offender meets the criteria in this act and  
2 does not receive the mandatory minimum prison sentence, the  
3 state attorney must explain the sentencing deviation in  
4 writing and place such explanation in the case file maintained  
5 by the state attorney. On a quarterly basis, each state  
6 attorney shall submit copies of deviation memoranda regarding  
7 offenses committed on or after the effective date of this act  
8 to the President of the Florida Prosecuting Attorneys  
9 Association, Inc. The association must maintain such  
10 information and make such information available to the public  
11 upon request for at least a 10-year period.

12 (2) Effective July 1, 2000, each state attorney shall  
13 annually report to the Speaker of the House, the President of  
14 the Senate, and the Executive Office of the Governor regarding  
15 the prosecution and sentencing of offenders who met the  
16 criteria in s. 775.087(2)(a)2. and 3. and (3)(a)2. and 3.,  
17 Florida Statutes. The report shall include the number of  
18 charges received in each circuit during the previous fiscal  
19 year by law enforcement agencies which based a criminal charge  
20 on facts demonstrating that the defendant met the criteria in  
21 s. 775.087(2)(a)2. and 3. and (3)(a)2. and 3., Florida  
22 Statutes, the case number of the state attorney's office  
23 involving such criminal charges, the final disposition, if  
24 any, of such cases, whether the minimum mandatory prison terms  
25 authorized herein were imposed in such cases, and a copy of  
26 each memorandum submitted to the courts that state a written  
27 basis in those cases in which the state attorney's office did  
28 not seek that the minimum mandatory prison term be imposed.  
29 Cases in which a final disposition has not yet been reached  
30 shall be reported in a subsequent annual report. Copies of  
31 each report shall be maintained by the Florida Prosecuting

1 Attorneys Association or each elected state attorney. By July  
2 1, 2001, each elected state attorney shall make each annual  
3 report available to the public on the Internet.

4 Section 3. For the purpose of incorporating the  
5 amendment to section 775.087, Florida Statutes, in references  
6 thereto, the following sections or subdivisions of Florida  
7 Statutes, or Florida Statutes, 1998 Supplement, are reenacted  
8 to read:

9 921.0022 Criminal Punishment Code; offense severity  
10 ranking chart.--

11 (2) The offense severity ranking chart has 10 offense  
12 levels, ranked from least severe, which are level 1 offenses,  
13 to most severe, which are level 10 offenses, and each felony  
14 offense is assigned to a level according to the severity of  
15 the offense. For purposes of determining which felony offenses  
16 are specifically listed in the offense severity ranking chart  
17 and which severity level has been assigned to each of these  
18 offenses, the numerical statutory references in the left  
19 column of the chart and the felony degree designations in the  
20 middle column of the chart are controlling; the language in  
21 the right column of the chart is provided solely for  
22 descriptive purposes. Reclassification of the degree of the  
23 felony through the application of s. 775.0845, s. 775.087, s.  
24 775.0875, s. 794.023, or any other law that provides an  
25 enhanced penalty for a felony offense, to any offense listed  
26 in the offense severity ranking chart in this section shall  
27 not cause the offense to become unlisted and is not subject to  
28 the provisions of s. 921.0023.

29 921.0024 Criminal Punishment Code; worksheet  
30 computations; scoresheets.--

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(b) WORKSHEET KEY:

Legal status points are assessed when any form of legal status existed at the time the offender committed an offense before the court for sentencing. Four (4) sentence points are assessed for an offender's legal status.

Community sanction violation points are assessed when a community sanction violation is before the court for sentencing. Six (6) sentence points are assessed for each community sanction violation, and each successive community sanction violation; however, if the community sanction violation includes a new felony conviction before the sentencing court, twelve (12) community sanction violation points are assessed for such violation, and for each successive community sanction violation involving a new felony conviction. Multiple counts of community sanction violations before the sentencing court shall not be a basis for multiplying the assessment of community sanction violation points.

Prior serious felony points: If the offender has a primary offense or any additional offense ranked in level 8, level 9, or level 10, and one or more prior serious felonies, a single assessment of 30 points shall be added. For purposes of this section, a prior serious felony is an offense in the offender's prior record that is ranked in level 8, level 9, or level 10 under s. 921.0022 or s. 921.0023 and for which the offender is serving a sentence of confinement, supervision, or other sanction or for which the offender's date of release



1 from confinement, supervision, or other sanction, whichever is  
2 later, is within 3 years before the date the primary offense  
3 or any additional offense was committed.

4  
5 Prior capital felony points: If the offender has one or more  
6 prior capital felonies in the offender's criminal record,  
7 points shall be added to the subtotal sentence points of the  
8 offender equal to twice the number of points the offender  
9 receives for the primary offense and any additional offense.  
10 A prior capital felony in the offender's criminal record is a  
11 previous capital felony offense for which the offender has  
12 entered a plea of nolo contendere or guilty or has been found  
13 guilty; or a felony in another jurisdiction which is a capital  
14 felony in that jurisdiction, or would be a capital felony if  
15 the offense were committed in this state.

16  
17 Possession of a firearm, semiautomatic firearm, or machine  
18 gun: If the offender is convicted of committing or attempting  
19 to commit any felony other than those enumerated in s.  
20 775.087(2) while having in his possession: a firearm as  
21 defined in s. 790.001(6), an additional 18 sentence points are  
22 assessed; or if the offender is convicted of committing or  
23 attempting to commit any felony other than those enumerated in  
24 s. 775.087(3) while having in his possession a semiautomatic  
25 firearm as defined in s. 775.087(3) or a machine gun as  
26 defined in s. 790.001(9), an additional 25 sentence points are  
27 assessed.

28  
29 Sentencing multipliers:  
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1 Drug trafficking: If the primary offense is drug trafficking  
2 under s. 893.135, the subtotal sentence points are multiplied,  
3 at the discretion of the court, for a level 7 or level 8  
4 offense, by 1.5. The state attorney may move the sentencing  
5 court to reduce or suspend the sentence of a person convicted  
6 of a level 7 or level 8 offense, if the offender provides  
7 substantial assistance as described in s. 893.135(4).  
8  
9 Law enforcement protection: If the primary offense is a  
10 violation of the Law Enforcement Protection Act under s.  
11 775.0823(2), the subtotal sentence points are multiplied by  
12 2.5. If the primary offense is a violation of s. 775.0823(3),  
13 (4), (5), (6), (7), or (8), the subtotal sentence points are  
14 multiplied by 2.0. If the primary offense is a violation of s.  
15 784.07(3) or s. 775.0875(1), or of the Law Enforcement  
16 Protection Act under s. 775.0823(9) or (10), the subtotal  
17 sentence points are multiplied by 1.5.  
18  
19 Grand theft of a motor vehicle: If the primary offense is  
20 grand theft of the third degree involving a motor vehicle and  
21 in the offender's prior record, there are three or more grand  
22 thefts of the third degree involving a motor vehicle, the  
23 subtotal sentence points are multiplied by 1.5.  
24  
25 Criminal street gang member: If the offender is convicted of  
26 the primary offense and is found to have been a member of a  
27 criminal street gang at the time of the commission of the  
28 primary offense pursuant to s. 874.04, the subtotal sentence  
29 points are multiplied by 1.5.  
30  
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1 Domestic violence in the presence of a child: If the offender  
2 is convicted of the primary offense and the primary offense is  
3 a crime of domestic violence, as defined in s. 741.28, which  
4 was committed in the presence of a child under 16 years of age  
5 who is a family household member as defined in s. 741.28(2)  
6 with the victim or perpetrator, the subtotal sentence points  
7 are multiplied, at the discretion of the court, by 1.5.

8 947.146 Control Release Authority.--

9 (3) Within 120 days prior to the date the state  
10 correctional system is projected pursuant to s. 216.136 to  
11 exceed 99 percent of total capacity, the authority shall  
12 determine eligibility for and establish a control release date  
13 for an appropriate number of parole ineligible inmates  
14 committed to the department and incarcerated within the state  
15 who have been determined by the authority to be eligible for  
16 discretionary early release pursuant to this section. In  
17 establishing control release dates, it is the intent of the  
18 Legislature that the authority prioritize consideration of  
19 eligible inmates closest to their tentative release date. The  
20 authority shall rely upon commitment data on the offender  
21 information system maintained by the department to initially  
22 identify inmates who are to be reviewed for control release  
23 consideration. The authority may use a method of objective  
24 risk assessment in determining if an eligible inmate should be  
25 released. Such assessment shall be a part of the department's  
26 management information system. However, the authority shall  
27 have sole responsibility for determining control release  
28 eligibility, establishing a control release date, and  
29 effectuating the release of a sufficient number of inmates to  
30 maintain the inmate population between 99 percent and 100  
31 percent of total capacity. Inmates who are ineligible for

1 control release are inmates who are parole eligible or inmates  
2 who:

3 (b) Are serving the mandatory minimum portion of a  
4 sentence enhanced under s. 775.087(2) or (3), or s. 784.07(3);

5  
6 In making control release eligibility determinations under  
7 this subsection, the authority may rely on any document  
8 leading to or generated during the course of the criminal  
9 proceedings, including, but not limited to, any presentence or  
10 postsentence investigation or any information contained in  
11 arrest reports relating to circumstances of the offense.

12 Section 4. In order to inform the public and to deter  
13 and prevent crime in the state, the Executive Office of the  
14 Governor shall place public service announcements in visible  
15 local media throughout the state explaining the penalties  
16 provided in this act.

17 Section 5. This act shall take effect upon becoming a  
18 law.

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